

Poso Creek Improvement JPA Documents

- 1. Agreement Between the Department of the Army and the Poso Creek Improvement Joint Powers Agreement Agencies for the Poso Creek Basin Investigation**
- 2. Poso Creek Improvement JPA**

AGREEMENT
BETWEEN THE DEPARTMENT OF THE ARMY
AND
THE POSO CREEK IMPROVEMENT JOINT POWERS AGREEMENT AGENCIES
FOR THE POSO CREEK BASIN INVESTIGATION

THIS AGREEMENT is entered into this 25 day, of OCT, 2009, by and between the Department of the Army (hereinafter the "Government"), represented by the District Engineer executing this Agreement, and the Poso Creek Improvement Joint Powers Agreement Agencies (hereinafter the "Sponsor"),

WITNESSETH, that

WHEREAS, the Congress (Senate and/or House Committees) has authorized the U.S. Army Corps of Engineers to conduct a study of the Sacramento-San Joaquin Basin Streams, California, pursuant to House Document No. 367, 81st Congress, 1st Session, as presented in the 1964 congressional resolution of the House committee on Public Works; and

WHEREAS, the U.S. Army Corps of Engineers has conducted a reconnaissance study of flooding from White River, Poso and Deer Creeks in Tulare and Kern Counties, and initiated by a resolution of the Committee on Transportation and Infrastructure of the House of Representatives on October 9, 1998 (Docket 2585) pursuant to this authority, and has determined that further study in the nature of a "Feasibility Phase Study" (hereinafter the "Study") is required to fulfill the intent of the study authority and to assess the extent of the Federal interest in participating in a solution to the identified problem; and

WHEREAS, Section 105 of the Water Resources Development Act of 1986 (Public Law 99-662, as amended) specifies the cost sharing requirements applicable to the Study;

WHEREAS, the Sponsor has the authority and capability to furnish the cooperation hereinafter set forth and is willing to participate in study cost sharing and financing in accordance with the terms of this Agreement; and

WHEREAS, the Sponsor and the Government understand that entering into this Agreement in no way obligates either party to implement a project and that whether the Government supports a project authorization and budgets it for implementation depends upon, among other things, the outcome of the Study and whether the proposed solution is consistent with the Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies and with the budget priorities of the Administration;

NOW THEREFORE, the parties agree as follows:

ARTICLE I - DEFINITIONS

For the purposes of this Agreement:

A. The term "Study Costs" shall mean all disbursements by the Government pursuant to this

Agreement, from Federal appropriations or from funds made available to the Government by the Sponsor, and all negotiated costs of work performed by the Sponsor pursuant to this Agreement.

Study Costs shall include, but not be limited to: labor charges; direct costs; overhead expenses; supervision and administration costs; the costs of participation in Study Management and Coordination in accordance with Article IV of this Agreement; the costs of contracts with third parties, including termination or suspension charges; and any termination or suspension costs (ordinarily defined as those costs necessary to terminate ongoing contracts or obligations and to properly safeguard the work already accomplished) associated with this Agreement.

B. The term "estimated Study Costs" shall mean the estimated cost of performing the Study as of the effective date of this Agreement, as specified in Article III.A. of this Agreement.

C. The term "excess Study Costs" shall mean Study Costs that exceed the estimated Study Costs and that do not result from mutual agreement of the parties, a change in Federal law that increases the cost of the Study, or a change in the scope of the Study requested by the Sponsor.

D. The term "study period" shall mean the time period for conducting the Study, commencing with the release to the U.S. Army Corps of Engineers Sacramento District of initial Federal feasibility funds following the execution of this Agreement and ending when the Assistant Secretary of the Army (Civil Works) submits the feasibility report to the Office of Management and Budget (OMB) for review for consistency with the policies and programs of the President.

E. The term "PMP" shall mean the Project Management Plan, which is attached to this Agreement and which shall not be considered binding on either party and is subject to change by the Government, in consultation with the Sponsor.

F. The term "negotiated costs" shall mean the costs of in-kind services to be provided by the Sponsor in accordance with the PMP.

G. The term "fiscal year" shall mean one fiscal year of the Government. The Government fiscal year begins on October 1 and ends on September 30.

ARTICLE II - OBLIGATIONS OF PARTIES

A. The Government, using funds and in-kind services provided by the Sponsor and funds appropriated by the Congress of the United States, shall expeditiously prosecute and complete the Study, in accordance with the provisions of this Agreement and Federal laws, regulations, and policies.

B. In accordance with this Article and Article III.A., III.B. and III.C. of this Agreement, the Sponsor shall contribute cash and in-kind services equal to fifty (50) percent of Study Costs other than excess Study Costs. The Sponsor may, consistent with applicable law and regulations, contribute up to 25 percent of Study Costs through the provision of in-kind services. The in-kind services to be provided by the Sponsor, the estimated negotiated costs for those services, and the estimated schedule under which those services are to be provided are specified in the PMP. Negotiated costs shall be subject to an audit by the Government to determine reasonableness, allocability, and allowability.

C. The Sponsor shall pay a fifty (50) percent share of excess Study Costs in accordance with

Article III.D. of this Agreement.

D. The Sponsor understands that the schedule of work may require the Sponsor to provide cash or in-kind services at a rate that may result in the Sponsor temporarily diverging from the obligations concerning cash and in-kind services specified in paragraph B. of this Article. Such temporary divergences shall be identified in the quarterly reports provided for in Article III.A. of this Agreement and shall not alter the obligations concerning costs and services specified in paragraph B. of this Article or the obligations concerning payment specified in Article III of this Agreement.

E. If, upon the award of any contract or the performance of any in-house work for the Study by the Government or the Sponsor, cumulative financial obligations of the Government and the Sponsor would result in excess Study Costs, the Government and the Sponsor agree to defer award of that and all subsequent contracts, and performance of that and all subsequent in-house work, for the Study until the Government and the Sponsor agree to proceed. Should the Government and the sponsor require time to arrive at a decision, the Agreement will be suspended in accordance with Article X., for a period of not to exceed six months. In the event the Government and the sponsor have not reached an agreement to proceed by the end of their 6 month period, the Agreement may be subject to termination in accordance with Article X.

F. No Federal funds may be used to meet the Sponsor's share of Study Costs unless the Federal granting agency verifies in writing that the expenditure of such funds is expressly authorized by statute.

G. The award and management of any contract with a third party in furtherance of this Agreement which obligates Federal appropriations shall be exclusively within the control of the Government. The award and management of any contract by the Sponsor with a third party in furtherance of this Agreement which obligates funds of the Sponsor and does not obligate Federal appropriations shall be exclusively within the control of the Sponsor, but shall be subject to applicable Federal laws and regulations.

H. The Sponsor shall be responsible for the total cost of developing a response plan for addressing any hazardous substances regulated under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Pub. L. No. 96-510, 94 Stat. 2767, (codified at 42 U.S.C. Sections 9601-9675), as amended, existing in, on, or under any lands, easements or rights-of-way that the Government determines to be required for the construction, operation, and maintenance of the project. Such costs shall not be included in total study costs.

ARTICLE III - METHOD OF PAYMENT

A. The Government shall maintain current records of contributions provided by the parties, current projections of Study Costs, current projections of each party's share of Study Costs, and current projections of the amount of Study Costs that will result in excess Study Costs. At least quarterly, the Government shall provide the Sponsor a report setting forth this information. As of the effective date of this Agreement, estimated Study Costs are \$2,800,000 and the Sponsor's share of estimated Study Costs is \$1,400,000. In order to meet the Sponsor's cash payment requirements for its share of estimated Study Costs, the Sponsor must provide a cash contribution

currently estimated to be \$700,000. The dollar amounts set forth in this Article are based upon the Government's best estimates, which reflect the scope of the study described in the PMP, projected costs, price-level changes, and anticipated inflation. Such cost estimates are subject to adjustment by the Government and are not to be construed as the total financial responsibilities of the Government and the Sponsor.

B. The Sponsor shall provide its cash contribution required under Article II.B. of this Agreement in accordance with the following provisions:

1. For purposes of budget planning, the Government shall notify the Sponsor by July first of each year of the estimated funds that will be required from the Sponsor to meet the Sponsor's share of Study Costs for the upcoming fiscal year.

2. No later than 60 calendar days prior to the scheduled date for the Government's issuance of the solicitation for the first contract for the Study or for the Government's anticipated first significant in-house expenditure for the Study, the Government shall notify the Sponsor in writing of the funds the Government determines to be required from the Sponsor to meet its required share of Study Costs for the first fiscal year of the Study. No later than 30 calendar days thereafter, the Sponsor shall verify to the satisfaction of the Government that the Sponsor has deposited the required funds in an escrow or other account acceptable to the Government, with interest accruing to the Sponsor.

3. For the second and subsequent fiscal years of the Study, the Government shall, no later than 60 calendar days prior to the beginning of the fiscal year, notify the Sponsor in writing of the funds the Government determines to be required from the Sponsor to meet its required share of Study Costs for that fiscal year, taking into account any temporary divergences identified under Article II.C. of this Agreement. No later than 30 calendar days prior to the beginning of the fiscal year, the Sponsor shall make the full amount of the required funds available to the Government through the funding mechanism specified in paragraph B.2. of this Article.

4. The Government shall draw from the escrow or other account provided by the Sponsor such sums as the Government deems necessary to cover the Sponsor's share of contractual and in-house fiscal obligations attributable to the Study as they are incurred.

5. In the event the Government determines that the Sponsor must provide additional funds to meet its share of Study Costs, the Government shall so notify the Sponsor in writing. No later than 60 calendar days after receipt of such notice, the Sponsor shall make the full amount of the additional required funds available through the funding mechanism specified in paragraph B.2. of this Article.

C. Within ninety (90) days after the conclusion of the Study Period or termination of this Agreement, the Government shall conduct a final accounting of Study Costs, including disbursements by the Government of Federal funds, cash contributions by the Sponsor, the amount of any excess Study Costs, and credits for the negotiated costs of the Sponsor, and shall furnish the Sponsor with the results of this accounting. Within thirty (30) days thereafter, the Government, subject to the availability of funds, shall reimburse the Sponsor for the excess, if

any, of cash contributions and credits given over its required share of Study Costs, other than excess Study Costs, or the Sponsor shall provide the Government any cash contributions required for the Sponsor to meet its required share of Study Costs other than excess Study Costs.

D. The Sponsor shall provide its cash contribution for excess Study Costs as required under Article II.C. of this Agreement by delivering a check payable to "FAO, USAED, Sacramento District" to the District Engineer as follows:

1. After the project that is the subject of this Study has been authorized for construction, no later than the date on which a Project Cooperation Agreement is entered into for the project; or

2. In the event the project that is the subject of this Study is not authorized for construction by a date that is no later than 5 years of the date of the final report of the Chief of Engineers concerning the project, or by a date that is no later than 2 years after the date of the termination of the study, the Sponsor shall pay its share of excess costs on that date (5 years after the date of the Chief of Engineers or 2 year after the date of the termination of the study).

ARTICLE IV - STUDY MANAGEMENT AND COORDINATION

A. To provide for consistent and effective communication, the Sponsor and the Government shall appoint named senior representatives to an Executive Committee. Thereafter, the Executive Committee shall meet regularly until the end of the Study Period.

B. Until the end of the Study Period, the Executive Committee shall generally oversee the Study consistently with the PMP.

C. The Executive Committee may make recommendations that it deems warranted to the District Engineer on matters that it oversees, including suggestions to avoid potential sources of dispute. The Government in good faith shall consider such recommendations. The Government has the discretion to accept, reject, or modify the Executive Committee's recommendations.

D. The Executive Committee shall appoint representatives to serve on a Study Management Team. The Study Management Team shall keep the Executive Committee informed of the progress of the Study and of significant pending issues and actions, and shall prepare periodic reports on the progress of all work items identified in the PMP.

E. The costs of participation in the Executive Committee (including the cost to serve on the Study Management Team) shall be included in total project costs and cost shared in accordance with the provisions of this Agreement.

ARTICLE V - DISPUTES

As a condition precedent to a party bringing any suit for breach of this Agreement, that party must first notify the other party in writing of the nature of the purported breach and seek in good faith to resolve the dispute through negotiation. If the parties cannot resolve the dispute through negotiation, they may agree to a mutually acceptable method of non-binding alternative dispute

resolution with a qualified third party acceptable to both parties. The parties shall each pay 50 percent of any costs for the services provided by such a third party as such costs are incurred. Such costs shall not be included in Study Costs. The existence of a dispute shall not excuse the parties from performance pursuant to this Agreement.

ARTICLE VI - MAINTENANCE OF RECORDS

A. Within 60 days of the effective date of this Agreement, the Government and the Sponsor shall develop procedures for keeping books, records, documents, and other evidence pertaining to costs and expenses incurred pursuant to this Agreement to the extent and in such detail as will properly reflect total Study Costs. These procedures shall incorporate, and apply as appropriate, the standards for financial management systems set forth in the Uniform Administrative Requirements for Grants and Cooperative Agreements to state and local governments at 32 C.F.R. Section 33.20. The Government and the Sponsor shall maintain such books, records, documents, and other evidence in accordance with these procedures for a minimum of three years after completion of the Study and resolution of all relevant claims arising therefrom. To the extent permitted under applicable Federal laws and regulations, the Government and the Sponsor shall each allow the other to inspect such books, documents, records, and other evidence.

B. In accordance with 31 U.S.C. Section 7503, the Government may conduct audits in addition to any audit that the Sponsor is required to conduct under the Single Audit Act of 1984, 31 U.S.C. Sections 7501-7507. Any such Government audits shall be conducted in accordance with Government Auditing Standards and the cost principles in OMB Circular No. A-87 and other applicable cost principles and regulations. The costs of Government audits shall be included in total Study Costs and shared in accordance with the provisions of this Agreement.

ARTICLE VII - RELATIONSHIP OF PARTIES

The Government and the Sponsor act in independent capacities in the performance of their respective rights and obligations under this Agreement, and neither is to be considered the officer, agent, or employee of the other.

ARTICLE VIII - OFFICIALS NOT TO BENEFIT

No member of or delegate to the Congress, nor any resident commissioner, shall be admitted to any share or part of this Agreement, or to any benefit that may arise therefrom.

ARTICLE IX - FEDERAL AND STATE LAWS

In the exercise of the Sponsor's rights and obligations under this Agreement, the Sponsor agrees to comply with all applicable Federal and State laws and regulations, including Section 601 of Title VI of the Civil Rights Act of 1964 (Public Law 88-352) and Department of Defense Directive 5500.11 issued pursuant thereto and published in 32 C.F.R. Part 195, as well as Army Regulations 600-7, entitled "Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army".

ARTICLE X - TERMINATION OR SUSPENSION

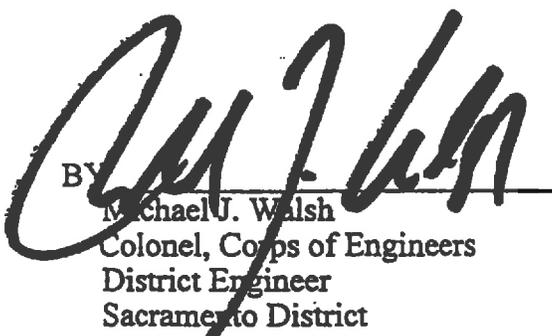
A. This Agreement shall terminate at the conclusion of the Study Period, and neither the Government nor the Sponsor shall have any further obligations hereunder, except as provided in Article III.C.; provided, that prior to such time and upon thirty (30) days written notice, either party may terminate or suspend this Agreement. In addition, the Government shall terminate this Agreement immediately upon any failure of the parties to agree to extend the study under Article II.E. of this agreement, or upon the failure of the sponsor to fulfill its obligation under Article III. of this Agreement. In the event that either party elects to terminate this Agreement, both parties shall conclude their activities relating to the Study and proceed to a final accounting, in accordance with Article III.C. and III.D. of this Agreement. Upon termination of this Agreement, all data and information generated as part of the Study shall be made available to both parties.

B. Any termination of this Agreement shall not relieve the parties of liability for any obligations previously incurred, including the costs of closing out or transferring any existing contracts.

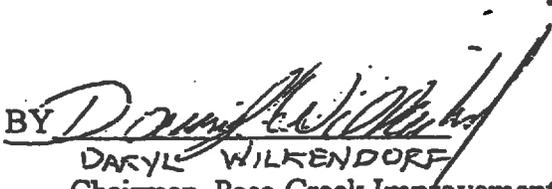
IN WITNESS WHEREOF, the parties hereto have executed this Agreement, which shall become effective upon the date it is signed by the District Engineer for the U.S. Army Corps of Engineers, Sacramento District.

DEPARTMENT OF THE ARMY

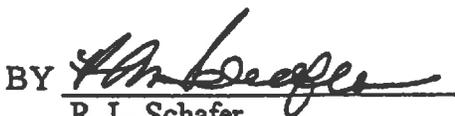
POSO CREEK IMPROVEMENT JOINT
POWERS AGREEMENT AGENCIES

BY 

Michael J. Walsh
Colonel, Corps of Engineers
District Engineer
Sacramento District

BY 

DARYL WILKENDORF
Chairman, Poso Creek Improvement Joint
Power Agreement Agencies

BY 

R. L. Schafer
Secretary, Poso Creek Improvement Joint
Power Agreement Agencies

POSO CREEK IMPROVEMENT JOINT POWERS AGREEMENT

This Joint Powers Agreement (JPA) is made and entered into as of the 12th day of September, 2000 by and between the CAWELO WATER DISTRICT, the NORTH KERN WATER STORAGE DISTRICT and the SEMITROPIC WATER STORAGE DISTRICT. Said public agencies are herein collectively referred to as the "parties" and are identified in Exhibit "A" attached hereto and incorporated herein by reference. Exhibit "A" shall be periodically modified to reflect changes in the parties.

RECITALS

WHEREAS, the Cawelo Water District is organized under the provisions of Division 13 of the Water Code; and

WHEREAS, The North Kern Water Storage District is organized pursuant to Division 14 of the Water Code; and

WHEREAS, the Semitropic Water Storage District is organized pursuant to Division 14 of the Water Code; and

WHEREAS, each party has broad powers which are specified in Section 3.01 herein to manage, maintain, protect and enhance channels, reservoirs and facilities, among other things, storage and distribution of water and related drainage and reclamation works and desires to exercise such powers in common with the other parties hereto; and

WHEREAS, the parties have concluded that the joint exercise of their powers will result in more efficient operation and management of their activities including, but not limited to, coordination with Federal, State and local agencies involved with maintaining and enhancing local flood protection and water conservation; and

WHEREAS, each of the parties is authorized to contract with each other for the joint exercise of any common power under Article 1, Chapter 5, Division 7, Title 1 of the Government Code (commencing with Section 6500) (hereinafter referred to as the "Joint Powers Act"),

NOW THEREFORE, in consideration of the mutual promises, covenants and conditions hereinafter set forth, it is agreed by and among the parties as follows:

ARTICLE 1 - DEFINITIONS

As used in this JPA, unless the context requires otherwise, the meaning of the terms hereinafter set forth shall be as follows:

(a) "Executive Committee" or "Committee" shall mean the Committee established by Section 4.01 of this JPA.

(b) "Budget" means the approved budget applicable to the administration of this JPA.

(c) "Facility" or "Facilities" means any works financed, constructed, acquired, repaired, rehabilitated, operated or maintained pursuant to Project Agreements entered into under this JPA, including without limitation water courses, drainage works, conduits, ditches, canals, dams, reservoirs, tanks, pumping plants, treatment plants, buildings, and other structures utilized for the diversion, pumping, conveyance, control, storage, groundwater recharge, treatment, management and delivery of water.

(d) "Fiscal Year" shall mean that period beginning on July 1 and ending on June 30 of the following year.

(e) "Participant" means any party who elects to participate in a Project Agreement created pursuant to the provisions of Article 8 of this JPA.

(f) "Project Agreement" means an agreement between and among all or some of the parties to this JPA or other entities to provide for undertaking and sharing in the costs and benefits of any Project as described in Sections 8.01 and 8.02 hereof.

ARTICLE 2 - TERM

Section 2.01 Term. This JPA shall be effective as of 15 August 2000 as to any party which has executed the JPA and shall remain in effect until terminated by mutual consent of all of the parties, subject to the right of a party to withdraw pursuant to section 9.02.

ARTICLE 3 - PURPOSES OF THE JPA

Section 3.01 General Purpose of the JPA. Each party hereto has the power in common with one another to: 1) acquire, manage, maintain, protect and enhance facilities and channels necessary for storage and distribution of water and related drainage and reclamation works; 2) contract with public agencies and private entities or parties to achieve such objectives; and 3) finance, acquire, construct, operate, and maintain facilities necessary for storage and distribution of water and related drainage and reclamation works. The general purpose of this JPA is to promote cooperation and preliminary planning among the parties, and under Project Agreements, to plan, develop, and implement specific projects by all or some of the parties, as appropriate, to provide water conservation benefits on Poso Creek and as a result also ameliorate the problem of flooding along the Poso Creek Channel.

Section 3.02 Specific Initial Purpose of the JPA. Specifically, the parties intend to identify and make preliminary plans for the development and implementation of projects under Project Agreements that accomplish the following:

- (a) Provide leadership for the local non-Federal sponsorship in the planning and construction of a Poso Creek reservoir and related facilities by appointment of an administrator for coordination with the U. S. Army Corps of Engineers, the State of California and local agencies for the development of a feasibility report, acquisition of lands, easements, relocations and rights-of-way, and by payment of equitable local cost allocations; and
- (b) Rehabilitate realign, construct, maintain and expend funds for the clearing and maintenance of the Poso Creek channel; and
- (c) Provide for the ongoing contribution and payment of costs for operation and maintenance of Poso Creek and related facilities.

Section 3.03 Powers. The parties, pursuant to this JPA, shall have the power through Project Agreements to exercise any of the powers authorized by the Joint Powers Act including, but not limited to, any of the following:

(a) To exercise the common powers to study, plan, finance, develop, operate and maintain facilities for storage and distribution of water and related drainage and reclamation works, and to enter into any contracts related to such activities;

(b) To contract for the service of engineers, attorneys, planners, financial consultants, separate and apart therefrom, to employ such other persons as they deem necessary;

(c) To acquire, construct, manage, maintain, operate and replace any facility;

(d) To enter into agreements with any public agencies or private entities for the provision of all or a portion of the local contribution which may be required for the construction, operation or maintenance of any facilities;

(e) To acquire, by eminent domain or otherwise, and to hold and dispose of property necessary to the full exercise of their powers;

(f) To incur debts, liabilities or obligation subject to limitations herein set forth;

(g) To issue bonds, notes and other indebtedness, and to enter into leases, installment sale and installment purchase contracts, all as hereinafter provided;

(h) To apply for, accept and receive state, federal or local licenses, permits, grants, loans or other aid from any agency of the United States of America, the State of California or other public or private entities necessary for the full exercise of their powers; and

(i) To perform all acts necessary or proper to carry out fully the purposes of this Agreement.

ARTICLE 4 - ORGANIZATION

Section 4.01 Executive Committee. The JPA shall be administered by an Executive Committee which shall be composed of one representative of each of the parties. Each representative shall be selected and designated in writing from time to time by the governing body of each of the parties.

Each party, in addition to appointing its representative to the Committee, shall appoint in writing at least one alternate representative. The role of each alternate representative shall be to represent the party in case of the absence or unavailability of its principal representative. The representative shall continue to serve until their respective successors are appointed.

Section 4.02 Meetings. The Committee shall meet at times and places as may be determined by the Committee to be appropriate. A notice of the time and place of such meetings shall be furnished to each party, each principal representative, and each alternate representative. Regular, adjourned and special meetings shall be called, noticed and held in accordance with Chapter 9, Division 2, Title 5 of the Government Code of the State of California, the "Brown Act" (commencing at Section 54950).

Section 4.03 Officers and Staff.

(a) The Committee shall designate a Chairperson and a Vice Chairperson. The Committee shall designate a Secretary to keep the necessary minutes and other documents to properly document the affairs of the JPA, including satisfying applicable requirements of the Government Code Section 6505. The Committee shall designate a treasurer to keep independent books, records, accounts and other reports of the JPA. The secretary and treasurer need not be members of the Executive Committee.

(b) All of the privileges and immunities from liability, exemptions from laws, ordinances and rules which apply to the activity of officers, agents or employees of any of the parties when performing their respective functions shall apply to them to the same degree and extent while engaged in the performance of any of the functions or other duties under this JPA.

Section 4.04 Quorum Voting. Representatives of at least a majority of the Committee shall constitute a Quorum for the purpose of transacting business. Except as otherwise provided herein or by law, the vote of a majority of all the representatives present shall be required to take action. Nothing in this section shall authorize the Committee to commit any party to participate in or become obligated for any project undertaken pursuant to a Project Agreement developed in accordance with Article 8 hereof. The participation in and obligations assumed by any party for such projects shall be specified in the Project Agreement.

ARTICLE 5 - FINANCIAL PROVISIONS

Section 5.01 Accounting. All funds shall be strictly and separately accounted for, and regular reports shall be rendered of all receipts and disbursements, at least quarterly during the fiscal year. The books and records kept pursuant to this JPA shall be open to inspection by the parties and by bond holders as and to the extent provided by resolution or indenture.

Section 5.02 Reimbursement. With prior approval of the Executive Committee, any party providing services may receive reasonable reimbursement for all costs and expenses associated with such service.

Section 5.03 Property: Bonds. The Committee shall from time to time designate the person(s), in addition to those specified above, who may have charge of, manage, or have access to, any property acquired pursuant to this JPA. Each such person shall file a bond in an amount designated by the Committee.

Section 5.04 Budget. The Executive Committee shall by a two-thirds (2/3) vote of Committee representatives of the parties adopt a budget for the administration and operation of the JPA for the ensuing fiscal year at least thirty (30) days prior to the beginning of the fiscal year. The budget shall not be exceeded or amended during the fiscal year except by a two-thirds (2/3) vote of all Committee representatives of the parties.

Section 5.05 Contribution.

(a) All fees, costs and expenses incurred for general JPA administration and operation shall be allocated to the parties equally and paid by the parties annually.

(b) If no provision has been made for the payment by a party of the allocated contribution provided for under subdivision (a) above within sixty (60) days of the billing date, that party shall be subject to termination from this JPA. Any party failing to provide adequately for payment within the sixty (60) day period shall be given notice of termination. If an arrangement is not made for appropriate payment within ninety (90) days of the mailing of Notice of Termination, the interest of that party shall be terminated. A terminated party shall have no further participation in this JPA. The

terminated party shall not be relieved from any obligations arising from any contracts, resolutions, indentures or other obligations incurred by it pursuant to the terms of this JPA without the express consent of the remaining parties to this JPA.

(c) All fees, costs and expenses incurred by the JPA under a Project Agreement shall be allocated to the participants signatory to the project agreement in accordance with the terms and conditions set forth in such Project Agreement.

ARTICLE 6 - ADMINISTRATIVE OFFICE

Section 6.01 Administrative Office. The Cawelo Water District shall be designated as the Administrative Office to maintain the records and accounts established to implement this JPA. All books, accounts and records shall be open for review by the parties to this JPA during normal business hours. Regular and special meetings of the Executive Committee shall be held at times and places determined by the Executive Committee. The Cawelo Water District shall be reimbursed for its overhead and expenses attributable to the general administration of this JPA provided that two thirds of the members of the Executive Committee authorize such reimbursement.

ARTICLE 7 - PLANNING

Section 7.01 Planning Policy. In keeping with the purposes of this JPA, the parties hereby authorize and direct the Executive Committee to undertake and participate in such preliminary studies and planning as are necessary to provide for the purposes set forth in this JPA and identify the projects which have general benefit to the parties and those which benefit some, but not all of the parties. In development of the preliminary studies and plans, the Executive Committee shall consider the financial methods for funding the projects identified, as well as the proposed allocation of costs among all or some of the parties.

ARTICLE 8 - PROJECTS

Section 8.01 Projects. The projects undertaken pursuant to Project Agreements are intended to consist of those programs and facilities necessary to implement the

powers and purposes articulated in Sections 3.01, 3.02 and 3.03 herein and which have been identified in the preliminary studies and plans developed by the Executive Committee pursuant to Article 7. These projects may include the development, implementation, design, construction and rehabilitation of, and acquisition of funding for all or any portion of such projects by the parties or in conjunction and cooperation with any other public agency or private entity. Each project undertaken pursuant to a Project Agreement shall constitute an independent enterprise and party participation shall be defined in a project agreement adopted pursuant to the provisions of Section 8.02 hereof.

Section 8.02 Project Agreement. The parties electing to participate in any project shall enter into a Project Agreement. Thereafter, all assets rights, benefits, debts, liabilities, obligations and indebtedness shall become and remain those of the parties who have executed the respective Project Agreement, and shall not be the assets, rights, benefits, debts, liabilities, obligations and indebtedness of those parties who have not executed a project agreement with respect thereto. The parties to each such Project Agreement shall make adequate provision therein for acceptable forms of insurance provided for under the provisions of Government Code Section 990.4, in amounts sufficient to protect against such occurrences and to insure that nonparticipating parties are protected therefrom.

ARTICLE 9 - RELATIONSHIP OF THE PARTIES

Section 9.01 Additional Parties. Additional parties may join in this JPA and become parties upon the unanimous consent of the Executive Committee. Any terms and conditions of such joinder shall be set forth as an exhibit to this JPA and shall be signed by all Executive Committee representatives. Any such terms and conditions shall be consistent with any contracts, resolutions or indentures then in effect.

Section 9.02 Withdrawal of Party. Notwithstanding anything herein to the contrary, any party may withdraw from this JPA by giving written notice of its election to do so, which notice shall be given to the Executive Committee and to each of the other parties; provided, that such withdrawal shall not in any way relieve the withdrawing

party from any of its obligations then in effect as a result of actions previously undertaken by the Executive Committee without the express written consent of the remaining parties to the JPA. In the event a party withdraws in accordance with the terms and conditions hereof, such party shall not receive a refund of any amounts advanced for administration of the JPA.

Section 9.03 Disposition of Property Upon Determination by Committee of Surplus. Upon termination of this Agreement or upon the determination by the Committee that any surplus money is on hand, such surplus money shall be returned to the parties in proportion to their participation percentages.

Section 9.04 Agreed Upon Share of Liability or Judgment for Damages. If any of the parties are held liable for acts or omissions which occur in the performance of this JPA, such party or parties shall be entitled to contribution from each of the other parties to the JPA so that after said contribution each party shall bear a share equal to its obligation in existence at the time of the subject act or omission occurred as specified in the JPA. Each party shall indemnify, defend and hold harmless the other parties from any liability, cause of action or damage in excess of its obligation specified in this JPA. This provision is not intended to define the obligations of the parties to each other for liabilities caused by or arising in any way from acts committed by the parties or any of them, in furtherance of a Project Agreement. The obligations of the parties to each other for such liabilities shall be defined and established in such Project Agreement.

Each of the parties hereto which is also a party to a Project Agreement hereby agrees to, and shall, hold harmless and defend each other party hereto which is not a party to such Project Agreement from and against any and all claims, liabilities, damages, causes of action, demands, costs, losses, recoveries, settlements or expenses caused by, or arising in any way from, activities carried on in the furtherance of such Project Agreements.

ARTICLE 10 - MISCELLANEOUS PROVISIONS

Section 10.01 Amendment. This JPA may be amended only by an agreement approved by all of the parties.

Section 10.02 Severability - If one or more clauses, sentences, paragraphs or provisions of this JPA shall be held to be unlawful, invalid or unenforceable, it is hereby agreed by the parties that the remainder of the JPA shall not be affected thereby. Similarly should the participation of any party to this JPA be decided by the courts or legislature to be illegal or in excess of that party's powers, the validity of the participation of the remaining parties to the JPA shall continue upon the same terms as provided herein as if that party had not been a participant to the JPA.

Section 10.03 Assignment. Except as otherwise provided in this JPA, the rights and duties of the parties may not be assigned or delegated without the written consent of all other parties. Any attempt to assign or delegate such rights or duties in contravention of this JPA shall be null and void. Any approved assignment or delegation shall be consistent with the terms of any contracts, resolutions, indemnities and other obligations of the JPA then in effect. This JPA shall inure to the benefit of, and be binding upon the approved successors and assigns of the parties hereto.

Section 10.04 Notices. Notices authorized or required to be given pursuant to this JPA shall be in writing and shall be deemed to have been given when mailed, postage prepaid, or delivered during working hours to the following addresses or to such changed addresses as are communicated to the parties in writing:

<u>Party</u>	<u>Contact Person</u>
Cawelo Water District 17207 Industrial Farm Road Bakersfield, CA 93308-9519	John Jones
North Kern Water Storage District P. O. Box 81435 Bakersfield, CA 93380-1435	Dana Munn
Semitropic Water Storage District P. O. Box Z Wasco, CA 93280	Will Boschman

The addresses for official notices and any modifications thereto shall be listed in Exhibit "A" hereto and incorporated herein by this reference.

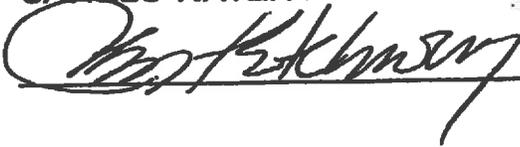
Section 10.05 Counterparts. This JPA may be executed by the parties in separate counterparts, each of which when so executed and delivered shall be an original. All such counterparts shall together form one and the same instrument.

Section 10.06 Choice of Law. This JPA shall be governed by the laws of the State of California.

Section 10.07 Headings. The titles of paragraph or articles of this JPA are for convenience only, and no presumption or implication of the intent of the parties as to the construction of the JPA shall be drawn therefrom.

IN WITNESS WHEREOF, the parties have caused this JPA to be executed as of the day and year first above written.

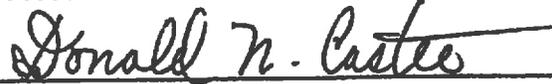
CAMELO WATER DISTRICT



Sept. 12, 2000
Date

Date

NORTH KERN WATER STORAGE DISTRICT



9-21-00
Date

Date

SEMITROPIC WATER STORAGE DISTRICT



Sept 13, 2000
Date

Date